85-991

Supreme Court, U.S.
FILED
NOV 12 1985
JOSEPH F. SPANIOL, JR.
CLERK

No. _____

SUPREME COURT OF THE UNITED STATES

October Term, 1985

In Re

ANTHONY R. MARTIN-TRIGONA
Petitioner

PETITION FOR WRIT OF CERTIORARI AND/OR MANDAMUS TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

ANTHONY R. MARTIN-TRIGONA
Post Office Box 946
Lenox Hill Station
New York, New York 10021
(203) 287-8352

APPEALS PRINTERS
BOSTON, MA

QUESTIONS PRESENTED FOR REVIEW

1. May a federal court compel and coerce a citizen of the United States to be a "voluntary debtor" when the citizen does not wish to be a litigant and is most demonstrably not a "voluntary debtor?"
2. May a federal Court of Appeals simply ignore a petition for writ of mandamus raising novel and serious conflict of interest questions concerning a federal district judge who previously established an attorney/client privilege with one of the parties to a law suit in the same case which is now before the district judge?
3. May a federal Court of Appeals simply ignore a petition for writ of mandamus seeking to ascertain and clarify the status of a purported bankruptcy trustee who has "resigned" his position and is no longer a trustee but continues to allow others to act in his name as a purported trustee?

PARTIES TO THE PROCEEDING

The petitioner in this Court is Anthony R. Martin-Trigona, who is being compelled by the Court of Appeals to be a "voluntary" debtor in bankruptcy but who is obviously and most demonstrably not a voluntary debtor or litigant.

The respondents are Richard Belford, purported bankruptcy trustee of the petitioner, who has resigned that position but is allowing others to act in his name, and the judges of the U.S. Court of Appeals for the Second Circuit. [See below]

PERSONS AGAINST WHOM MANDAMUS RELIEF IS SOUGHT IN THIS COURT

Petitioner seeks relief and review either by way of certiorari, or else by way of mandamus, as set forth in this petition. In compliance with Rule 27.1 of this Court, petitioner notes that he seeks relief against the following judges: Hon. Wilfred Feinberg, Hon. Irving Kaufman, Hon. James Oakes, Hon. Thomas Meskill, Hon. Jon O. Newman, Hon. Amalya Kearse, Hon. Richard Cardamone, Hon. Ralph Winter, Hon. Lawrence Pierce, Hon. George Pratt, Hon. Roger Miner.

Pursuant to Rule 27.1 petitioner states that he seeks relief in this court because this court is the only court which can grant petitioner relief. Petitioner has applied for relief in the Court of Appeals, but has been ignored. The respondents refuse to act on his pending petitions for mandamus (Docket Numbers 85-8071 and 85-8066) and refused to act on the merits (Docket Number 84-5036). The only court which can compel the respondents to take action is this Court.

TABLE OF CONTENTS

Questions Presented for Review 1

Parties to the Proceeding 1

Persons Against Whom Mandamus Relief is Sought in This Court 2

Table of Contents 3

Table of Authorities 4

References to Published Reports 5

Grounds on Which the Jurisdiction of the Court is Invoked 5

Statutes Involved 5

Statement of the Case 5
- Preliminary Statement 5
- Facts 6

Basis of Jurisdiction in the Court of Appeals 8

Reasons for Granting the Writ 9

A. The federal Courts Lack the Constitutional Power under article III to compel petitioner to be a "voluntary" debtor when he steadfastly refuses to be a voluntary debtor 9

B. A private attorney who establishes an attorney/client privilege with a litigant is disqualified from sitting in the same case as a federal judge 10

C. The District Court and the Court of Appeals may not simply ignore the resignation of a bankruptcy trustee 11

D. Why is this nonsense being permitted by federal judges? 12

Conclusion 13

TABLE OF AUTHORITIES

Brown v. Hart, Schaffner & Marx, 96 F.R.D. 64 (N.D. Ill. 1982) 13

Dunton v. County of Suffolk, 748 F.2d 69 (2d Cir. 1984) 10

Hughes v. Paine Webber, 565 F. Supp. 663 (N.D. Ill. 1983) 11

In Re Grand Jury Subpoena, 731 F.2d 1032 (2d Cir. 1984) 11

Matter of Hampton Hardware, 11 B.R. 326 (E.D. Mich. 1981) 12

Novo v. Baxter Travenol, 607 F.2d 186 (7th Cir. 1979) (en banc) 11

United States v. Kras, 409 U.S. 434 (1973) 10

United States v. Martin-Trigona, 684 F.2d 485 (7th Cir. 1982) 5

United States v. Vague, 697 F.2d 805 (7th Cir. 1983) 9

Westinghouse v. Kerr McGee, 580 F.2d 1311 (7th Cir. 1978) 11

REFERENCES TO PUBLISHED REPORTS

None of the proceedings relative to this petition are published.

GROUNDS ON WHICH THE JURISDICATION OF THE COURT IS INVOKED

The petition for certiorari portion of this petition if based on the final judgement of the Court of Appeals in Docket Number 84-5036, which vests jurisdiction in this court pursuant to 28 USCA (§1254(1). The petition for mandamus portions of this petition is based on 28 USCA §1651.

STATUTES INVOLVED

This petition does not raise statutory issues. It is premised on the supervisory powers of this court over the administration of justice in the federal courts.

STATEMENT OF THE CASE

Preliminary Statement

In this petition, the Court confronts a most bizarre situation. In an age when the Chief Justice and others have criticized the flood tide of litigation in our courts, the Court confronts a litigant who has steadfastly sought for over four (4) years to *dismiss* a law suit and to *terminate litigation*, and to pay his just debts in full, and who has been coerced and compelled to be and proceed as a "voluntary" debtor in bankruptcy merely because federal judges wish to force a citizen to proceed with a law suit and wish to force the litigant to avail himself of the "protection" of the federal courts. This case proves, if it proves nothing else, that federal judges are equally culpable for flooding the courts with unnecessary litigation.

This is a petition where there is a "voluntary debtor" who is *not* a voluntary debtor; where the judge in the case previously established an attorney/client privilege with one of the par-

ties *in this case* and now refuses to recuse himself from the case; where the Court of Appeals refuses to act on efforts to recuse the judge; where the purported "bankruptcy trustee" has resigned, but has not been allowed to resign, and where the Court of Appeals refuses to address the question of the trustee's resignation. It is thus a case in which there is no "voluntary" debtor, no trustee, and a disqualified judge, and yet where the litigation proceeds, year after year, and where all efforts to terminate the case have proven fruitless because the Court of Appeals refuses to even act on the merits of petitioner's efforts to end this morass of mindless litigation. Finally, it is a law suit which is not being maintained for the benefit of either the "debtor" or creditors, but solely for the financial gain of "bankruptcy trustees" who seek to seize *100%* of the money they have collected.

Facts

In 1980, petitioner was falsely accused of a criminal violation. He was forced to proceed to trial without counsel, convicted, and *jailed without bail pending appeal.* He was jailed for eighteen (18) months *without appeal.* Finally, the conviction was reversed,[1] and the charges were dismissed.

While petitioner was jailed without bail in Illinois, a "voluntary" bankruptcy case was commenced in his name in New York. Without giving petitioner any opportunity to be heard, the case was surreptitiously transferred to Connecticut. A "trustee," respondent Richard Belford, was appointed. Petitioner was a man with substantial property interests and a net worth of over $1 million. He owned radio stations in Boston and New Haven, Connecticut.[2] He advised the bankruptcy court that he did not wish to be a voluntary debtor, had never filed any case in Connecticut, and was not a resident of Connecticut. The bankruptcy judge refused to dismiss the case, and when petitioner was released from criminal custody, he was jailed for civil contempt because he refused to be a "voluntary debtor."

In due course, the bankruptcy proceedings were removed to the district court.[3] Petitioner renewed his efforts to dismiss the litigation. The district judge refused to dismiss the litigation, and jailed petitioner for civil contempt, because petitioner continued in his refusal to be a "voluntary debtor."

When petitioner, after being incarcerated for refusing to be a debtor, renewed his motion to dismiss the litigation, so that his long-suffering creditors could be paid, the district judge refused to even let the Motion to Dismiss be filed. Petitioner took an appeal to the Court of Appeals, raising both appellate issues and supervisory issues concerning the advisability of clogging the federal courts with a law suit where an involuntary "voluntary" debtor was resisting efforts to make him a voluntary debtor.[4]

The Court of Appeals refused to address the question of dismissal on the merits, and dismissed the appeal (A1 - A2), and denied a petition for rehearing (A3).[5]

While matters were pending in the Court of Appeals, the district judge who had jailed petitioner, the Hon. Jose Cabranes, resigned from the case, and in due course the matter was assigned to the Hon. Peter Dorsey.

In 1982, petitioner had attempted to hire then-private attorney Peter Dorsey (who was subsequently appointed to the district bench). Petitioner and Attorney Dorsey had spoken about the merits of the case, discussed participation in the litigation, and Dorsey had referred the litigation to another law firm.[6] Petitioner then moved to disqualify Judge Dorsey on the grounds that he had established an attorney/client privilege with petitioner, and could not sit as a judge in a case where he had been consulted and confided in as a lawyer. Dorsey denied the motion. Petitioner then filed a petition for writ of mandamus in the Court of Appeals (Docket Number 85-8071) on July 23, 1985. The Court of Appeals has refused to decide the issue, and the issue remains pending in the Court of Appeals. Petitioner asks this Court to mandamus the Court of Appeals to address the issues raised by the refusal of a federal judge to remove himself from a case where he was previously consulted and confided in as private counsel and in which he established an attorney/client privilege with one of the litigants.

In the midst of all of this confusion, the purported trustee, Belford, added his own layer of confusion by tendering his resignation (A4). At a hearing on April 29, 1985, Judge Dorsey agreed to decide the question of Belford's resignation "promptly." No action has been taken to date. When Dorsey refused to act and Belford continued to act, petitioner sought relief in the Court of Appeals through another petition for mandamus, because of unsettled questions concerning the viability of Belford's trustee's bond after his resignation. The petition for mandamus in the Court of Appeals was docketed as number 85-8066. The Court of Appeals has refused to address the serious, novel questions presented by the resignation of a bankruptcy trustee who is then coerced and compelled by the district court to continue in that capacity. Petitioner now asks this Court to issue a writ of mandamus to compel the Court of Appeals to promptly address the trustee resignation issue.[7]

Thus, as of this date, petitioner refuses to be a "voluntary" debtor but is being forced to proceed as a "voluntary debtor" in a court in which he never filed any voluntary case and in which he did not reside when the case was filed. The judge refuses to remove himself, even though he established an attorney/client privilege with the petitioner, and the Court of Appeals refuses to address the issues presented. The purported trustee has resigned, but the district court and the Court of Appeals refuse to recognize the resignation and refuse to address the legal issues presented by the resignation. It is not an exaggeration to claim that this is truly a convoluted law suit, made all the more so by the refusal of the Court of Appeals to address matters properly presented for decision.

BASIS OF JURISDICTION IN THE COURT OF APPEALS

As to Court of Appeals docket number 84-5036, for which certiorari is sought, jurisdiction in the Court of Appeals was based on 28 USCA § 1291. As to the mandamus petitions in that court for which mandamus is sought in this court (Docket Numbers 85-8066 and 85-8071), jurisdiction was based on 28 USCA § 1651.

REASONS FOR GRANTING THE WRIT

The petitioner has been branded in various judicial opinions as being "vexatious and malicious." Yet the record discloses that he is the one who has sought for over four (4) years to *avoid litigation* and to *end the law suits*. The litigation has not been instigated at his behest, and is not being continued or maintained at his behest. Federal judges refuse to dismiss the litigation, while at the same time accusing the petitioner of being "vexatious and malicious" because he has steadfastly refused to be a "voluntary" debtor. Because of the novel and bizarre issues presented by this litigation, which has created a totally unnecessary flood tide of litigation, this court is asked to grant the requested writs and to order a prompt dismissal of the litigation or other appropriate relief.

A.

The Federal Courts lack the constitutional power under Article III to compel petitioner to be a "voluntary" debtor when he steadfastly refuses to be a voluntary debtor.

This litigation does *not* involve an involuntary bankruptcy case commenced by creditors against a debtor who is not paying his bills. This case represents a "voluntary" case in which the voluntary litigant denies ever authorizing the litigation, and has steadfastly refused to participate in the case as a voluntary debtor. For over four (4) years a series of federal judges have jailed petitioner, for almost eighteen (18) months, to "coerce" petitioner to become a "voluntary" litigant. Petitioner has refused. Petitioner maintains that the courts may not force someone to proceed as a "voluntary" party when the record is abundantly clear that they are not voluntary litigants. The position of the Court of Appeals in this litigation is bizarre and unprecedented. The Court of Appeals has repeatedly taken the position that it has the power to force someone to avail himself of the protections of the Bankruptcy Code, even when that party refuses those protections and refuses to be a voluntary litigant. As stated in *United States v. Vague*, 697 F.2d 805, 807 (7th Cir. 1983) a consistent line of authority in the federal courts has been that "A federal judge may not insist that a criminal *or civil* proceed-

ing be begun *or continued*." There is no case or controversy jurisdiction in a "case" where a "voluntary debtor" refuses to be a "voluntary debtor" and steadfastly refuses to accept the "protection" of the federal court. As this Court noted in *United States v. Kras*, 409 U.S. 434, 445-448 (1973) bankruptcy is not a right, and a debtor may choose a number of various alternatives to pay his bills. Federal judges may not force him to choose federal bankruptcy as a "voluntary debtor" when he refuses to be a "voluntary debtor." It is demonstrably not vexatious and malicious for a party dragged kicking and screaming into court, and branded by the court as a "voluntary party," to respond by filing a blizzard of defensive, and even obnoxious responses denying that status and denying that he wishes to be in federal court. At a time when federal judges, and the Court of Appeals itself, complain of "swollen appellate dockets," *Dunton v. County of Suffolk*, 748 F.2d 69, 70 (2d Cir. 1984) it should strike this Court as almost beyond belief that the Court of Appeals and district court have lavished over 100 pages of published opinions on a case where the "voluntary debtor" is not a voluntary debtor, and where the bankruptcy trustee and his counsel plan to take 100% of everything they have collected for their own benefit and freeze out the creditors from receiving a penny (A5-A7). The Court of Appeals is conducting its own private war against petitioner for reasons which defy description and defy the constitutional limitations imposed on federal judges by Article III of the Constitution. It is obvious that petitioner is not a "voluntary debtor." This court must uphold and enforce the Constitution and declare that petitioner is not now and cannot legally be a voluntary litigant when he obviously refuses to be a voluntary litigant.

B.

A private attorney who establishes an attorney/client privilege with a litigant is disqualified from sitting in the same case as a federal judge.

The bizarre legal issues raised by this litigation are seemingly endless. The judge does not deny consulting with petitioner when the judge was in private practice. One would

think that would mandate his recusal. Yet the judge refuses to remove himself, and the Court of Appeals ignores requests to invoke its supervisory jurisdiction.

It is basic that the judge and the petitioner established an attorney/client privilege, and that the judge may not sit in the same case as a judge in which he was consulted as counsel. A client need not actually retain an attorney for the attorney/client privilege to attach to the relationship between prospective counsel and prospective client *Hughes v. Paine Webber*, 565 F. Supp. 663, 669-670 (N.D. Ill. 1983). "[E]ven the briefest conversation between a lawyer and a client can result in the disclosure of confidences." *Novo v. Baxter Travenol*, 607 F.2d 186, 195 (7th Cir. 1979) (en banc). Even preliminary discussions relative to retention of counsel create an attorney/client privilege. *Westinghouse Elec. v. Kerr McGee Corp.*, 580 F.2d 1311, 1319 (7th Cir. 1978) cert. den. 439 U.S. 955 (1978). Once the attorney/client privilege is created, it is a *permanent* protection for the client and proscription for the lawyer. See *In Re Grand Jury Subpoena*, 731 F.2d 1032, 1036 (2d Cir. 1984). Here, the existense of the attorney/client privilege is *undisputed*. Yet, the district judge refuses to recuse himself and the Court of Appeals refuses to act in a case of egregious judicial overreaching. The integrity of the federal judicial system is assaulted by judges, and demeaned by judges, when a litigant is forced to proceed in a law suit raising the kinds of issues presented in this petition. This Court has a duty to see to it that a judge with an obvious conflict of interest is removed.

C.

The District Court and the Court of Appeals may not simply ignore the resignation of a bankruptcy trustee.

The purported trustee in this case resigned over six (6) months ago. Yet the district court refuses to acknowledge the resignation and, once again, the Court of Appeals refuses to act.

For reasons that defy explanation, the judges of the Court of Appeals have become so personally embroiled in this litigation they are seemingly paralyzed to respond to either obvious instances where an exercise of appellate jurisdiction

is involved or where novel and bizarre issues call for appellate supervision of the district court. We now confront a case with a "voluntary debtor" who is not a voluntary debtor and a "trustee" who is not a voluntary trustee, and wishes to resign, but who is being "coerced" into acting as a nominal trustee because federal judges insist that the litigation go on and on and on. Congress has provided that bankruptcy trustees may resign, 11 USCA § 703(a). Congress has not vested in the federal courts the power to impose an involuntary trusteeship on an unwilling trustee. The conduct of the appellate judges is irresponsible and unprincipled and out of keeping with the high standards of conduct expected of federal judges.

D.

Why is this nonsense being permitted by federal judges?

One must pose the inevitable question: why is this nonsense litigation going on and on? The debtor is maligned for being vexatious and malicious,[8] but he obviously takes a very rational and responsible position that he does not wish the protection of the federal court and wishes to be free to either pay his creditors or to resolve his differences with creditors in the state courts. This litigation has been fostered by what Congress has called "the Bankruptcy Ring." See *House Report 95-595* at p. 95. The Bankruptcy Ring is the "relatively closed society" which breeds corruption and infests the federal courts with conflicts of interest. *Matter of Hampton Hardware*, 11 B.R. 326, 330 n. 1 (E.D. Mich. 1981). Mr. Belford came into what he thought would be a profitable case for him. He and his former law partner, who separated amoeba-like and became trustee and independent "counsel," have milked the estate for *everything* they have collected, and seek to bail out after having deprived creditors of any remedies for five (5) years and after having sought to collect 100% of the property of the estate. Mr. Coan, Belford's former law partner, and now in independent practice and acting as Belford's "independent" counsel, admitted as much on the record in open court (A5 -A7). This case stands as an assault on the integrity

of the federal courts, and an effort to utilize the federal courts for private profiteering. These lawyers can properly be characterized as "rapacious jackals." *Brown v. Hart Schaffner & Marx.*, 96 F.R.D. 64, 67 (N.D. Ill. 1982). Their greed stands confessed on the record. They seek *everything* they have collected. They have used and abused the federal courts to advance their own moneymaking manipulation, and federal judges have been duped into fostering and encouraging their schemes. At some point, in some Court, this nonsense must come to an end. This is the point and this is the Court where the "end of the line" must be declared for the "jackals," and where judges who have either wittingly or unwittingly done their bidding must be brought back to reality. The petitioner, an innocent man, who was unlawfully jailed in 1980, is not now, and will never be, a "voluntary debtor." He is an innocent victim of the dregs of the legal profession who have sought to rape his business and walk off with his life's work.

CONCLUSION

The petitioner is not hostile to the Court of Appeals, or to the federal judicial system. Rather, he looks back in sadness, not anger, at the abuses which have been visited on him.[9] This is truly a case where, in Mr. Coan's own words, the record "speaks for itself." Petitioner has been imprisoned, and villified, and his business has been raped, because he refused to be a "voluntary" debtor when he was not a voluntary debtor, and because he wished to avoid the courts and to pay his creditors, as he had done throughout his life and in all of his business affairs. He does not want and does not need the protection of federal judges, and has resisted efforts of federal judges to force their way into his life. For this he has been punished, villified, and excoriated in hundreds of pages of published opinions. Petitioner will, most humbly and most respectfully, allow this Court, to make the final judgment on whether petitioner could be compelled to proceed "voluntarily" when he did not wish to proceed "voluntarily."

This Court is asked to grant all or part of the relief sought, and to order a prompt end to this tragic episode in the history of our federal courts.

Respectfully submitted,

ANTHONY R. MARTIN-TRIGONA
Post Office Box 946
Lenox Hill Station
New York, New York 10021

November 8, 1985

Endnotes:

1. *United States v. Martin-Trigona*, 684 F.2d 485 (7th Cir. 1982).

2. One of the stations is before the Supreme Court in a current petition for certiorari, see *In Re Martin-Trigona*, No. 85-

3. The district court proceedings culminated in an injunction seeking to "ban" petitioner from the federal and state courts because he is "anti-semitic," a matter currently before this Court in a pending petition for certiorari, see *In Re Martin-Trigona*, No. 85-

4. It is important to note that this is *not* an involuntary case that has been filed by petitioner's creditors. This case has never been litigated on the theory that it is an involuntary case. The Court of Appeals and district court have always proceeded on the premise that petitioner is a "voluntary" party. No involuntary proceedings have ever been commenced against petitioner at any time.

5. This is the final judgment of the Court of Appeals from which certiorari review is sought in this Court.

6. The fact of discussions between the then lawyer and now judge are largely, though not completely, undisputed. The judge does not deny any of the petitioner's material allegations concerning their communications in this case when the judge was a private attorney.

7. Mr. Belford appears to have abandoned his duties as a trustee, although his counsel continues to claim to be acting on Belford's behalf. Indeed, Belford himself appears to be acting as a straw man, so that his former law partner can continue to milk the alleged estate of "counsel fees," see pp.A5-A6.

8. One of the truly bizarre aspects of the litigation has been that the petitioner is branded as "vexatious and malicious" for attacking his adversaries, but it is obvious that the petitioner has attacked no one at all. On the contrary, *it is petitioner who has been attacked*, and who has been fending off purported bankruptcy trustees and their "counsel" and judges who appoint and support them. It is an indisputable matter of record that petitioner never filed any bankruptcy case in Connecticut. Yet he has been accused of harassing the very people who are in fact harassing him, and he has been "banned" and "enjoined" from the federal and state courts because he has vehemently and vigorously defended himself against those persons who sought to destroy his property and business. Petitioner is truly a victim, not a victimizer, in this litigation.

9. Petitioner has repeatedly requested the assistance of counsel, and been denied the assistance of counsel. *In Re Martin-Trigona*, 737 F.2d 1254, 1260-1261 (2d Cir. 1984). This is *not* a case where a pro se litigant has thrust himself on the federal courts. This is a case where a party has sought and been denied counsel. Obviously, petitioner has become personally embroiled in this litigation. To the extent that his unavoidable personal embroilment has led him beyond the bounds of proper advocacy, he apologizes to this Court and to any other court. Yet, petitioner's embroilment is *not* of his own making, and he has proceeded over his vehement and continuing requests for counsel, cf. *United States v. Martin-Trigona*, 684 F.2d 486 (7th Cir. 1982).

UNITED STATES COURT OF APPEALS
Second Circuit

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 4th day of June one thousand nine hundred and eighty-five.

Present:

Stamped
United States
Court of Appeals
Second Circuit
Filed
June 4, 1985

HONORABLE IRVING R. KAUFMAN,
HONORABLE AMALYA L. KEARSE,
Circuit Judges,
HONORABLE JACOB MISHLER*,
District Judge.

IN RE: ANTHONY R. MARTIN-TRIGONA

IN RE: NEW HAVEN RADIO, INC.

ANTHONY R. MARTIN-TRIGONA,
Plaintiff-Appellant,

-against- 84-5036

RICHARD M. COAN, and IRVING H. PERLMUTTER,
Defendants-Appellees.

Appeal from the United Staes District Court for the District of Connecticut.

This cause came on the be heard on the transcript of record from the United States District Court for the District of Connecticut and was argued, *pro se,* by the appellant.

ON CONSIDERATION WHEREOF, it is now hereby ordered, adjudged, and decreed that the appeal be and it hereby is dismissed.

---

*District Judge, Eastern District of New York, sitting by designation.

1. Martin-Trigona contends that the district court improperly denied him leave to file and serve four motions on May 7, 1984,. While this appeal from those orders was pending, however, Martin-Trigona has been permitted to file in the district court a motion to dismiss on grounds substantially similar to his previous motions to dismiss, and he is no longer incarcerated pursuant to an order of civil contempt. Moreover, Judge Cabranes does not currently preside over the proceedings in the district court. We conclude, in light of these recent developments,that the questions presented to us by Martin-Trigona have become moot. We decline, therefore, to address the merits of the appeal.

2. Accordingly, the appeal is dismissed.

/S/
IRVING R. KAUFMAN,
/S/
AMALYA L. KEARSE,
Circuit Judges.
/S/
JACOB MISHLER,
District Judge.

N.B. Since this statement does not constitute a formal opinion of this court and is not uniformly available to all parties, it shall not be reported, cited or otherwise used in unrelated cases before this or any other court.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

At a stated term of the United States Courts of Appeals, in and for the Second Circuit, held at the United States Courthouse, in the City of New York, on the twelfth day of August one thousand nine hundred and eighty-five.

IN RE: ANTHONY R. MARTIN-TRIGONA,
IN RE: NEW HAVEN RADIO,
Debtors.
****

Stamped
United States
Court of Appeals
Second Circuit
Filed
August 12, 1985

ANTHONY R. MARTIN-TRIGONA,
Plaintiff-Appellant,

v. No.84-5036

RICHARD M. COAN, and IRVING M PERLMUTTER,
Defendants-Appellees.

A petition for rehearing containing a suggestion that the action be reheard in banc having been filed herein by Anthony R. Martin-Trigona

Upon consideration by the panel that heard the appeal, it is

ORDERED that said petition for rehearing is DENIED.

It is further noted that the suggestion for rehearing in banc has been transmitted to the judges of the court in regular active service and to any other judge that heard the appeal and that no such judge has requested that a vote be taken thereon.

/S/

Elaine B. Goldsmith
Clerk

UNITED STATES BANKRUPTCY COURT
DISTRICT OF CONNECTICUT

In the Matter of	)	
ANTHONY R. MARTIN-TRIGONA,	)	Misc. Civ. No. H 83-62
Debtor	)	

NOTICE OF RESIGNATION OF TRUSTEE

Richard Belford, Trustee of the above estate, hereby resigns as Trustee effective May 6, 1985 or upon the sooner appointment of a Successor Trustee.

Dated at New Haven, Connecticut this 20th day of March, 1985.

/S/
Richard Belford
Trustee

March 20, 1985

This is to certify that a copy of the foregoing Notice of Resignation of Trustee was mailed, postage prepaid, on the above date to the persons appearing on the Master Service List annexed hereto.

/S/
Richard Belford
Trustee

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT
IN RE: ANTHONY R. MARTIN-TRIGONA MISC. CIV. H-83-62
ANTONIO SCHLEHAN
Plaintiff,
vs. MISC. CIV. H-83-11
OLYMPIC WORLDWIDE COMMUNICATIONS
Defendant

SEPTEMBER 3, 1985
HARTFORD, CONNECTICUT

BEFORE:

HON. PETER C. DORSEY, U.S.D.J.

APPEARANCES:

For MR. MARTIN-TRIGONA:

MR. ANTHONY R. MARTIN-TRIGONA, PRO SE
P.O. BOX 946
LENOX HILL STATION
NEW, YORK, NEW YORK 10021

For MR. BELFORD, TRUSTEE:

RICHARD COAN, ESQ.
18 Trumbull Street
New Haven, Connecticut 06511

Gerald W. Rankin
Official Court Reported

(PARTIAL TRANSCRIPT)

MR. COAN: Mr. Martin-Trigona has been denied a discharge. After this bankruptcy proceeding is over whatever happens to creditors will remain as debts and creditors will be free to pursue Mr. Martin-Trigona to satisfy the debts that he owes them.

THE COURT: How do we know for example, that cumulatively with all of the assets about which there may be some dispute particularly as far as liquidating any claims including compromising claims, that ultimately there might be an excess, maybe there won't be, maybe it's abundantly clear, maybe it will never happen but maybe the remote possibility that an excess of the assets over the liabilities might result in which instance it reverts to him, does it not?

MR. COAN: Well, Your Honor, we not only are extremely confident that there won't be an excess, in fact it looks like creditors will not receive a penny because administrative expenses will probably eat up whatever it is that we have been able to find.

As it is right now, taking into account some other properties that we expect to get, some other claims that we expect to obtain, we're talking about the relm of 100 to one hundred twenty thousand dollars at tops that we're going to get in. My fee, my administrative claim for fees has already been allowed in the amount of 112 thousand dollars and that was only taking into acount time that I spent up until last November which was approximately 11 hundred hours as of that time. I probably put in another three or four hundred hours in the past year. So that it's quite clear that administrative expenses will eat up whatever we found, we have no place else to turn for assets.

(WHEREUPON, there were further proceedings of record but not transcribed.)